

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 201903993	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/08/2019 7:28 PM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 11/8/2020	EO SOL 6/25/2021	
Date/Time CV Reported Thu, 05/09/2019 12:44 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/09/2019 12:44 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Padilla	16328	959868	PSA 2
2. SGT Keville Caesar	03896	951578	PSA 2
3. POM Michael Wallace	579	955649	PSA 2
4. POM Jonathan Frith	07626	953885	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Biko Harvey	07331	960639	PSA 2
2. LT Favio Quizhpi	00000	948119	PSA 2
3. POM Abir Noor	21625	959847	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Padilla	Discourtesy: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Kevin Padilla spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Kevin Padilla	Discourtesy: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Kevin Padilla spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Kevin Padilla	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Kevin Padilla used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.SGT Keville Caesar	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Keville Caesar used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E.SGT Keville Caesar	Discourtesy: At § 87(2)(b) [REDACTED] in Brooklyn, Sergeant Keville Caesar spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Michael Wallace	Force: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Michael Wallace used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Jonathan Frith	Discourtesy: At § 87(2)(b) [REDACTED] in Brooklyn, Police Officer Jonathan Frith spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM Jonathan Frith	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Frith threatened § 87(2)(b) with the use of force.	
I.POM Michael Wallace	Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace used physical force against § 87(2)(b)	
J.POM Michael Wallace	Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace spoke discourteously to § 87(2)(b)	
K.POM Michael Wallace	Abuse: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace threatened § 87(2)(b) with the use of force.	
L.SGT Keville Caesar	Abuse: At the PSA 2 stationhouse, Sergeant Keville Caesar refused to provide his name to § 87(2)(b)	
M.POM Michael Wallace	Abuse: At the PSA 2 stationhouse, Police Officer Michael Wallace refused to provide his name to § 87(2)(b)	

Case Summary

On May 9, 2019, § 87(2)(b) called the CCRB and filed this complaint.

On May 8, 2019, at approximately 7:28 p.m., § 87(2)(b) was at § 87(2)(b) in Brooklyn with her boyfriend, § 87(2)(b) and other unidentified individuals. PO Kevin Padilla, PO Abir Noor, and PO Ibrahim Adam of PSA 2 arrested § 87(2)(b) identified via investigation, inside the lobby of § 87(2)(b). PO Padilla spoke discourteously toward § 87(2)(b) (**Allegation A: Discourtesy**, § 87(2)(g)) and § 87(2)(b) (**Allegation B: Discourtesy**, § 87(2)(g)). PO Padilla used physical force against § 87(2)(b) (**Allegation C: Force**, § 87(2)(g)). Sgt. Keville Caesar of PSA 2 allegedly used physical force against § 87(2)(b) (**Allegation D: Force**, § 87(2)(g)). Sgt. Caesar allegedly spoke discourteously toward § 87(2)(b) (**Allegation E: Discourtesy**, § 87(2)(g)). PO Michael Wallace of PSA 2 performed a forcible takedown of § 87(2)(b) (**Allegation F: Force**, § 87(2)(g)). PO Jonathan Frith of PSA 2 allegedly spoke discourteously to § 87(2)(b) (**Allegation G: Discourtesy**, § 87(2)(g)). PO Frith allegedly threatened § 87(2)(b) with the use of force (**Allegation H: Abuse of Authority**, § 87(2)(g)). PO Wallace used physical force against § 87(2)(b) (**Allegation I: Force**, § 87(2)(g)). PO Wallace allegedly spoke discourteously toward § 87(2)(b) (**Allegation J: Discourtesy**, § 87(2)(g)). PO Wallace allegedly threatened § 87(2)(b) with the use of force (**Allegation K: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were transported to the PSA 2 stationhouse, where, Sgt. Caesar allegedly refused to provide his name to § 87(2)(b) (**Allegation L: Abuse of Authority**, § 87(2)(g)). PO Wallace allegedly refused to provide his name to § 87(2)(b) (**Allegation M: Abuse of Authority**, § 87(2)(g)). § 87(2)(b), § 87(2)(a) CPL 160.50

§ 87(2)(b)

§ 87(2)(b)

Body worn camera (BWC) video was received which is attached to IAs # 117-135, #140-141, and 148-150. The BWC footage is summarized in IA #143 (BR01). Cell phone video of the incident was obtained. It is attached to IAs #48-52 and summarized in IA#176 (BR02).

Allegation (A) Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Kevin

Padilla spoke discourteously to § 87(2)(b)

Allegation (B) Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Kevin

Padilla spoke discourteously to § 87(2)(b)

Allegation (C) Force: At § 87(2)(b) in Brooklyn, Police Officer Kevin Padilla used physical force against § 87(2)(b)

§ 87(2)(b) testified that she was outside of § 87(2)(b) with § 87(2)(b) and four other individuals she did not know (BR03). § 87(2)(b) entered the building to use the bathroom and observed § 87(2)(b) identified via investigation, being arrested by officers. The officers attempted to escort § 87(2)(b) outside, but he held onto the wall, which prevented the officers from getting him outside. Additional officers arrived and ordered everyone out of the lobby.

§ 87(2)(b) testified that he was never in the lobby of the building, but from outside, he saw officers enter the building and minutes later, he saw them escorting people outside (BR04).

In their CCRB interviews, § 87(2)(b) and § 87(2)(b) did not make any allegations against PO Padilla. However, the following was captured on BWC video. PO Padilla's BWC video shows that he, PO Adam, and PO Noor told § 87(2)(b) they were arresting him and bringing him back to the stationhouse. § 87(2)(b) questioned why. Several civilians in the lobby of the building surrounded the officers and questioned why § 87(2)(b) was being arrested. At the 1:00 minute mark, PO Padilla turns around and tells § 87(2)(b) seen in a black Nike t-shirt, "Don't fucking touch me." § 87(2)(b) responded, "Alright," and backed away. At the 1:22 minute mark, PO Padilla turns around, pushes § 87(2)(b) backwards, and says, "Back the fuck up" (BR05).

PO Padilla testified that § 87(2)(b) physically resisted when he was told he was being placed under arrest (BR06). In addition, there was a crowd of about 10-15 civilians in the lobby who were surrounding the officers during their encounter with § 87(2)(b). PO Padilla made a radio transmission requesting additional officers because the crowd posed a safety hazard for the officers. PO Padilla felt someone touching his back, which was what prompted him to turn around and tell § 87(2)(b) "Don't fucking touch me." While he did not feel § 87(2)(b) touch him, a few seconds later he saw someone very close behind him out of his peripheral vision, which is what prompted PO Padilla to turn around, push § 87(2)(b) and tell him to back the fuck up."

An officer's use of profanity in a crowd control situation will not constitute misconduct. PD v. White, DCT 78667/03 (BR07). Officers may use force when it is reasonable to ensure the safety of a member of service or the public. NYPD Patrol Guide, Procedure 221-01 (BR08).

§ 87(2)(g)

Allegation (D) Force: At § 87(2)(b) in Brooklyn, Sergeant Keville Caesar used physical force against § 87(2)(b)

Allegation (E) Discourtesy: At § 87(2)(b) in Brooklyn, Sergeant Keville Caesar spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that several officers arrived in the lobby of the building and ordered her and others to leave. § 87(2)(b) immediately attempted to try and exit the building, however, the many officers and civilians in the lobby were blocking the door. § 87(2)(b) never refused to leave and never argued with officers. § 87(2)(b) reached the door of the building when Sgt. Caesar, who was behind her, said, "Get the fuck out of the way." § 87(2)(b) turned around. Sgt. Caesar grabbed § 87(2)(b) by the back of her jacket and pushed her out of the doorway, causing her to fall to the floor. Other officers, § 87(2)(b) did not know who, surrounded her and handcuffed her.

§ 87(2)(b) testified that he saw § 87(2)(b) attempting to leave the building when an officer pushed her from behind, causing her to fall to the floor.

§ 87(2)(b)'s cousin, provided a brief phone statement, but was otherwise uncooperative with the investigation (see IAs for contact attempts). He said from his position outside of the building, he heard people yelling, looked toward the building, and saw officers throwing § 87(2)(b) out of the building (BR09).

None of the video evidence captures the interaction between § 87(2)(b) and Sgt. Caesar, and PO Padilla, PO Wallace, and PO Frith testified that they did not witness Sgt. Caesar's interaction with § 87(2)(b) (BR11-12)

Sgt. Caesar testified that he arrived at the building in response to a request for assistance from the Anti-Crime team (BR10). Upon his arrival, a large crowd surrounded the Anti-Crime officers. Sgt. Caesar immediately began ordering civilians to leave, but most of them continued yelling at the officers. Sgt. Caesar told § 87(2)(b) to leave multiple times and she refused to comply. After repeated commands, § 87(2)(b) turned and appeared to be leaving. Sgt. Caesar turned around to look at the Anti-Crime officers. When he turned back around, he saw § 87(2)(b) moving quickly toward him again, screaming and asking why § 87(2)(b) was being arrested. Sgt. Caesar put his hand out in front of him which stopped § 87(2)(b). Sgt. Caesar pushed § 87(2)(b) backwards because she refused to leave despite numerous orders from him to do so. Sgt. Caesar did not recall if he used profanity toward § 87(2)(b) though he may have, given the stressful crowd control situation that he was attempting to resolve.

An officer's use of profanity in a crowd control situation will not constitute misconduct. PD v. White, DCT 78667/03 (BR07). Officers may use force when it is reasonable to ensure the safety of a member of service or the public. NYPD Patrol Guide, Procedure 221-01 (BR08).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (F) Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace used physical force against § 87(2)(b)

Allegation (G) Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Frith spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Jonathan Frith threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that he walked toward the entrance to the building after seeing Sgt. Caesar push § 87(2)(b). PO Wallace walked up to § 87(2)(b) put his hand on § 87(2)(b).

§ 87(2)(b)'s shoulder, and pushed § 87(2)(b) to the floor. In a follow-up phone statement after his CCRB interview, § 87(2)(b) added that PO Frith, who was beside PO Wallace, told § 87(2)(b) "If you move, I'll knock you the fuck out" (BR13).

§ 87(2)(b) testified that she saw § 87(2)(b) on the ground after she was handcuffed, but she did not see what happened between § 87(2)(b) and officers.

None of the video evidence captures these aspects of the incident.

PO Wallace and PO Frith provided the following consistent testimony. They arrived to the location in response to the request for assistance from the Anti-crime officers. Upon arriving, they engaged in crowd control outside of the building due to the presence of a large crowd surrounding the entrance while people were exiting the lobby. The officers encountered § 87(2)(b) while he was trying to get back into the building. § 87(2)(b) was initially compliant in getting away from the building. However, § 87(2)(b) suddenly became angry, started screaming, and quickly ran back toward the building entrance. PO Wallace and PO Frith blocked his path. § 87(2)(b) responded swung his arms to his side. PO Wallace added that § 87(2)(b) clenched his fists and cursed at the officers. The officers decided to place § 87(2)(b) under arrest for disorderly conduct and grabbed his arms. § 87(2)(b) pulled his arms away and told the officers they were not arresting him. The officers attempted to get a hold of § 87(2)(b)'s arms again, but he continued to pull away. PO Wallace and PO Frith pushed § 87(2)(b) to the ground in order to gain better control of him to handcuff him. PO Frith and PO Wallace denied that PO Frith spoke discourteously toward § 87(2)(b) and denied that PO Frith threatened § 87(2)(b) with the use of force.

Sgt. Caesar and PO Padilla testified they did not witness this aspect of the incident.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (I) Force: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace used physical force against § 87(2)(b)

Allegation (J) Discourtesy: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace spoke discourteously to § 87(2)(b)

Allegation (K) Abuse of Authority: At § 87(2)(b) in Brooklyn, Police Officer Michael Wallace threatened § 87(2)(b) with the use of force.

§ 87(2)(b) testified that PO Wallace walked § 87(2)(b) to the stationhouse and that § 87(2)(b) followed PO Wallace. PO Wallace turned around and pushed § 87(2)(b) in the chest. PO Wallace told an officer, "Punch him in the fucking face," in reference to § 87(2)(b). PO Wallace continued walking away with § 87(2)(b).

§ 87(2)(b) stated that as he followed the officers who were walking § 87(2)(b) to the stationhouse, PO Wallace, identified via investigation, ordered § 87(2)(b) to "Get the fuck

back.” As they continued to walk, PO Wallace turned around and tried to grab § 87(2)(b) but he was unable to do so. § 87(2)(b) was at least 10 feet away from § 87(2)(b) while he was being walked to the stationhouse. § 87(2)(b) did not hear an officer threaten to punch him in the face.

Cell phone video recorded by § 87(2)(b) was provided to the investigation by § 87(2)(b) (BR14). The video shows § 87(2)(b) following officers who are leading § 87(2)(b) away. Starting at the 01:00 minute mark of the media player timestamp, visible at the bottom of the screen, § 87(2)(b) quickly approaches PO Wallace (dressed in jeans and a blue t-shirt) from the side. § 87(2)(b) says, “Turn around, time to see your faces” and walks right up to PO Wallace. PO Wallace turns toward § 87(2)(b) and the camera suddenly jolts out of focus. It cannot be discerned in the video whether PO Wallace made physical contact with § 87(2)(b). The video does not show whether PO Wallace used profanity toward § 87(2)(b) and does not show whether PO Wallace threatened § 87(2)(b) with the use of force.

None of the BWC video captured this aspect of the incident.

PO Wallace testified that he did not remember the interaction between himself and § 87(2)(b). Seeing the cell phone video during his CCRB interview did not refresh his recollection of this aspect of the incident. PO Wallace did not remember if he used any force against § 87(2)(b).

Officers may use force when it is reasonable to ensure the safety of a member of the service or members of the public. NYPD Patrol Guide, Procedure 221-01 (BR08).

An officer’s use of profanity in a crowd control situation will not constitute misconduct. PD v. White, DCT 78667/03 (BR07).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (L) Abuse of Authority: At the PSA 2 stationhouse, Sergeant Keville Caesar refused to provide his name to § 87(2)(b)

Allegation (M) Abuse of Authority: At the PSA 2 stationhouse, Police Officer Michael Wallace refused to provide his name to § 87(2)(b)

§ 87(2)(b) testified that she was lodged in a holding cell at the PSA 2 stationhouse. Sgt. Caesar entered the holding cell room and § 87(2)(b) told him that he assaulted her. Sgt. Caesar told § 87(2)(b)

§ 87(2)(b) to improve her balance § 87(2)(b) asked Sgt. Caesar for his name. Sgt. Caesar walked away without providing the requested information. § 87(2)(b) did not obtain Sgt. Caesar's name and did not provide this information in any of her statements to the CCRB.

§ 87(2)(b) testified that PO Wallace brought him to the holding cell room at the stationhouse by himself. § 87(2)(b) asked for his handcuffs to be loosened. PO Wallace said he could not do so until § 87(2)(b) was lodged in a cell. § 87(2)(b) asked PO Wallace for his name. PO Wallace did not provide his name. PO Wallace told § 87(2)(b) that he pushed him because he was protecting his partner.

BWC footage from another officer at the stationhouse, PO Biko Harvey of PSA 2, captured some of § 87(2)(b)'s interactions with PO Wallace and PO Frith near the holding cells (BR15). Starting at the 08:00 minute mark of the media player timestamp, visible at the bottom of the screen, § 87(2)(b) is seen in the background of the footage removing his exterior clothing with PO Wallace and PO Frith standing alongside him. The handcuffs have already been removed from § 87(2)(b). In the available video, § 87(2)(b) does not ask PO Wallace for his name.

No other video captured these aspects of the incident.

Sgt. Caesar testified that he spoke with § 87(2)(b) in the holding cell room and explained to her why he pushed her. § 87(2)(b) did not ask Sgt. Caesar for his name. Sgt. Caesar denied that he ever refused to provide his name to § 87(2)(b). Sgt. Caesar did not observe any interaction between PO Wallace and § 87(2)(b) at the stationhouse.

PO Wallace testified that he brought § 87(2)(b) to the stationhouse and began preparing § 87(2)(b) to be lodged. PO Wallace did not remember if any other officer was with him. § 87(2)(b) did not ask PO Wallace for his name and PO Wallace denied that he refused to provide his name.

PO Frith did not remember if § 87(2)(b) asked PO Wallace for his name. PO Frith did not remember if PO Wallace ever refused to provide his name to § 87(2)(b). PO Wallace and PO Frith did not see any conversation between Sgt. Caesar and § 87(2)(b).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the second complaint to which § 87(2)(b) has been a party.
 - § 87(2)(b) § 87(2)(b) § 87(2)(b)
- This is the first complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR17-18).

- PO Padilla has been a member of the service for four years and has been a subject in six complaints involving 20 allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Caesar has been a member of the service for eight years and has been a subject in four CCRB complaints involving eight allegations, none of which were substantiated. § 87(2)(g)
- PO Wallace has been a member of the service for six years and has been a subject in four CCRB complaints involving 18 allegations, none of which were substantiated. § 87(2)(g)
- PO Frith has been a member of the service for seven years and has been a subject in five CCRB complaints involving 13 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of February 13, 2020, the NYC Office of the Comptroller has no record of a Notice of Claim having been filed about this incident.
- According to the Office of Court Administration, § 87(2)(b) and § 87(2)(b) have no convictions in NYC.

Squad: 13

Investigator:	<u>Rolando Vasquez</u> Signature	<u>SI Rolando Vasquez</u> Print Title & Name	<u>04/15/20</u> Date
Squad Leader:	<u>Laura Kastner</u> Signature	<u>IM Laura Kastner</u> Print Title & Name	<u>04/15/20</u> Date